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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
47,661	6-11-79	John J. Nestor, et al	21060

Alan M. Krubiner
Pat. Dept., Syntex Corp.
3401 Hillview Ave.
Palo Alto, Calif. 94304

EXAMINER	
D.R. Phillips	
ART UNIT	PAPER NUMBER
125	2
DATE MAILED:	

MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

OCT 10 1979

GROUP 10

This application has been examined. Responsive to communication filed on _____ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited, Form PTO-892. 2. Notice of Informal Patent Drawing, PTO-948.
3. Notice of Informal Patent Application, Form PTO-152. 4. _____

Part II SUMMARY OF ACTION

Claims 1-19 are pending in the application.

Of the above, claim 19 is withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims 1-11, 13, 15 + 17 are allowed.

4. Claims 12, 14, 16 + 18 are rejected.

5. Claims _____ are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. The formal drawings filed on _____ are acceptable.

8. The drawing correction request filed on _____ has been approved. disapproved.

9. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
 been received. not been received. been filed in parent application, serial no. _____,
filed on _____.

10. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

11. Other

Art Unit 125

Restriction to one of the following distinct and separate inventions is required under 35 U.S.C. 121.

I. Claims 1-18 drawn to compounds, compositions and methods of use.

II. Claim 19 drawn to process of making compounds.

The process of making the compounds is divergent from the compounds since other methods could be devised to produce the instantly claimed compounds and compositions. For the above reasons the restriction requirement is considered proper.

Pursuant to telephonic election by Mr. Krubiner on September 12, 1979, claim 19 is withdrawn from further consideration by the Examiner as being drawn to a non-elected invention.

Claims 12, 14, 16 and 18 are rejected under 35 U.S.C. 101 as being duplicates of each other. The intended use preamble of these claims does not lend patentability to them. Consequently they are considered to be duplicate claims.

Claims 1-10, 11, 13, 15, and 17 are deemed allowable since even a minor change in the LH-RH molecule produces unpredictable effects and therefore these changes in the 6th position of the polypeptide are deemed to be unpredictable and therefore not suggested by any of the prior art.

The art is cited as of interest and does not anticipate nor render the instant claims obvious.

DRPhillips:cdc
(703) 557-2575
10-2-79

Delbert R. Phillips

Delbert R. Phillips
Primary Examiner
Art Unit 125